

BOARD OF CODE STANDARDS AND APPEALS

MINUTES

February 6, 2006

Members: Francisco Banuelos, Randy Coonrod, Randy Harder, Richard Hartwell, Bernie Hentzen, Gerald Herzberg, Ed Murabito, Warren Willenberg, John Youle

Present: Coonrod, Harder, Hartwell, Hentzen, Murabito, Willenberg

Staff Members Present: Kurt Schroeder, Deb Legge, Darlene Hultman, Elaine Hammons

The regular meeting of the Board of Code Standards and Appeals was called to order by Chairman Murabito on Monday, February 6, 2006, at 1:31 p.m. in the 1st floor Board Room, City Hall, 455 N. Main, Wichita, Kansas.

1. Approval of the Minutes of the January 9, 2006, meeting.

A motion was made by Board Member Hartwell to approve the minutes of the January 9, 2006, meeting as submitted. The motion was seconded by Board Member Harder. The motion carried, unopposed.

2. Approval of the February, 2006, license examination applications as follows:

<u>Name</u>	<u>Class</u>	<u>Test Date</u>
Wes M. Flory	Roofing & Siding	February, 2006
Ron Golden	Roofing & Siding	February, 2006
Carl Cunningham	Class D Maintenance	February, 2006
Michael Lang	Swimming Pool	February, 2006

Board Member Hentzen made a motion to approve the applications for testing. The motion was seconded by Board Member Willenberg. The motion passed, unopposed.

3. Request for second license by Timothy J. Buchanan.

Mr. Schroeder explained that the request by Mr. Buchanan was to allow him to be the qualified person for two different companies.

A motion was made by Board Member Coonrod to approve the request for a second license. The motion was seconded by Board Member Hartwell. The motion carried, unopposed.

4. Condemnation Hearings

New Cases

1. 1218 North Cleveland

There was no one attending the hearing to represent this property.

This is a one-story, frame dwelling about 30 X 40 feet in size. It has been vacant for approximately ten years. The structure has a cracking and shifting block foundation. The aluminum siding is deteriorated and the roof is badly deteriorated. The wood front porch is deteriorated as well. There is rotted and missing fascia and deteriorated wood trim. The case has been active since October of 1991.

Board Member Harder made a motion to send the property to the City Council for demolition action, ten days to start and ten days to complete demolition. The motion was seconded by Board Member Coonrod. The motion carried unanimously.

2. 1316 North Kansas

There was no one present to represent this property.

This is a one-story, masonry structure, approximately 40 X 40 feet in size. It has been vacant for at least five years. It has a cracking and shifting block foundation; a cracking and separating block wall; and a badly deteriorated roof.

Board Member Harder made a motion to refer the property to the City Council for demolition action, ten days to start and ten days to complete demolition. The motion was seconded by Board Member Willenberg. The motion passed, unopposed.

3. 1456 North Piatt

No one appeared on behalf of this property.

This is a one-story, frame dwelling, 32 X 38 feet in size. It is vacant and open. The block foundation is cracking and shifting; the structure has deteriorated and missing aluminum and composition siding; the roof is badly deteriorated. The front porch is dilapidated; there is missing and rotted wood trim. The 12 X 24 foot accessory building and the 12 X 30 foot accessory building are both dilapidated.

A motion was made by Board Member Coonrod to refer the property to City Council for demolition action, ten days to start and ten days to complete

demolition. The motion was seconded by Board Member Hartwell. The motion carried unanimously.

4. 1513 North Grove

There was no one present to represent this property.

This is a frame dwelling, one-story, approximately 24 X 34 feet in size. It has been vacant for at least two years. The roof is badly deteriorated with missing shingles, rotted decking and rotted rafter tails. The wooden front porch is dilapidated and has deteriorated steps. There is missing and rotted wood trim. The active file was initiated on March 30, 2003.

A motion was made by Board Member Harder to send the property to the City Council for demolition action, ten days to start and ten days to complete demolition. The motion was seconded by Board Member Hentzen. The motion was approved, unanimously.

5. 2105 North Minnesota

No one appeared before the Board to represent this property.

Twenty-four by thirty-eight feet in size, this one-story frame dwelling has been vacant for approximately three years. The roof is badly deteriorated with holes and rotted decking; exposed and rotted rafters; rotted and missing wood and hardboard siding; and rotted wood trim.

Board Member Hartwell made a motion to refer the property to the City Council for demolition action, ten days to start and ten days to complete demolition. The motion was seconded by Board Member Harder.

Board Member Hentzen requested an opportunity to clarify some issues regarding this property before the final vote on the motion was taken. Referring to the court appearances listed in the packet of information provided to the Board, Board Member Hentzen inquired whether they were correlated to the violations against the property. Ms. Legge confirmed that they were court dates set because of non-compliance with the Notice of Violations issued to the owner.

Chairman Murabito restated the motion by Board Member Hartwell; the motion carried, unopposed.

6. 2547 Raleigh

There was no one in attendance to represent the property.

This is a one-story, frame dwelling, 25 X 36 feet. It has been vacant for approximately ten years. It has missing roof covering and decking; exposed

rafters; and deteriorated, rotted and missing wood siding. The concrete porches are dilapidated and there is missing and rotted wood trim.

Board Member Coonrod made a motion to send the property to the City Council for demolition action, ten days to start and ten days to complete demolition. The motion was seconded by Board Member Hentzen. The motion passed without opposition.

7. 1627 South Lulu

There was no one present as a representative for this property.

This is a two-story, frame dwelling, 30 X 45 feet, and has been vacant for about five years. The roof is badly deteriorated and has holes; the siding is deteriorated and has missing shingles; the wood trim is also deteriorated. The 12 X 14 accessory building is dilapidated. The active file was initiated on May 1, 2001. The taxes are current. There is trash, bulky waste and debris on the premises.

Board Member Harder made a motion to refer the property to the City Council for demolition action, ten days to start and ten days to complete demolition. The motion was seconded by Board Member Hartwell.

Prior to the vote on the motion, Board Member Hartwell questioned why the property had reached such a state of disrepair before being brought before the Board. Ms. Legge explained in some circumstances, the dwellings are occupied and the inspector is working the case while a tenant is involved. In other instances, it's likely that the structure was not in such a severe condition when the file was first initiated, but had steadily declined until it was ultimately submitted for possible condemnation.

Chairman Murabito called for the vote on the motion to send the property to City Council for demolition action. The motion passed, unopposed.

8. 3003 North Salina

There was no one present to represent the property.

This is a one-story, frame dwelling, approximately 25 X 35 feet in size. It has been vacant for two years. The structure has a shifting block foundation; there are broken and missing siding shingles; the roof is badly deteriorated and there is rotted wood trim. The active file was started on January 15, 2004. Several notices have been issued; Central Inspection staff has talked with the owner's representative a number of times. In October, 2004, Central Inspection was informed that the owner intended to have the structure demolished in January of 2005.

A motion was made by Board Member Coonrod to send the property to City Council for demolition action, ten days to start and ten days to complete the

demolition. The motion was seconded by Board Member Hentzen. The motion passed unanimously.

9. 15300 East Kellogg (US 54)

There was no one appearing before the Board to represent this property.

A motion was made by Board Member Coonrod to send this property to City Council for demolition action, ten days to start demolition and ten days to complete demolition. The motion was seconded by Board Member Willenberg. The motion carried, unopposed.

5. Appeal action against Mike Southard d/b/a Southard Corporation, regarding the construction of a 12 X 20 addition to the rear of the dwelling at 9302 Jamesburg.

Chairman Murabito asked that the Board Members and City staff introduce themselves to Mr. And Mrs. Warren, the complainants in the appeal against Mike Southard d/b/a Southard Corporation.

Board Member Willenberg asked to be excused from the appeal hearing, citing a potential conflict of interest. Chairman Murabito excused him from the proceedings.

Mrs. Warren told the Board that in February of 2000 she received a telemarketing call soliciting remodeling business for Southard Corporation. She said that she agreed to have the salesman come to her home at 9302 Jamesburg. When the salesman arrived, he had a sample of the product, representing it as a metal material that had been developed in their own factory; he indicated that it was insulated and that it was used for ceiling and wall coverings.

At the time of the visit from the salesman, Mrs. Warren said she and her husband had just recently purchased the house and had the deck altered to eliminate the hot tub and the stairs that had been installed by the previous owners, raising the deck to one level. The finished deck was 20 X 24, with an eight-foot sliding glass patio door from the living area to the exterior. Due to Mr. Warren's health at the time, Mr. and Mrs. Warren wanted a sunroom where he could be outside without being exposed to the weather. The salesman allegedly told them that the Southard Corporation could construct a 12 X 20 room addition using a product that he described as similar to a material that is used in aircraft production, which was lightweight and durable. Mrs. Warren asked the salesman whether the deck could be used in its condition or if any kind of reinforcing would be needed. She said that the salesman asked her what type of foundation was under the deck; she stated that she told him that the foundation was 4 X 4's, and the salesman said that it might be necessary to add concrete reinforcement to the foundation before constructing the sunroom. He told her that he would have to verify

whether or not the foundation would require any reinforcement and get back in touch with her. The salesman for Southard Corporation contacted Mrs. Warren and confirmed that concrete reinforcement would be necessary for the foundation of the deck.

Mrs. Warren said that she had agreed that the reinforcing work could be done. After the contract was written, Mrs. Warren asked that the storm door be changed from a full view door to one with windows that could be lowered from the top and raised from the bottom to aid ventilation. The salesman told her that it would be no problem. She said that she didn't understand the terminology that was used when the salesman wrote down the changes, but he figured the price and she agreed to the cost. Six days later, the salesman returned with an addendum, telling her that it was not exactly the door that she had requested, but that he felt she would be pleased with it because it had a vent at the bottom. The door that was installed was a full view door with a 9 X 12-inch opening at the bottom of one side that slides open for ventilation.

When the first carpenter showed up at the site to work, Mrs. Warren said she asked him about the building permit. The workman told her that the permit was at the home office in Great Bend. She asked him if the permit was supposed to be on the construction site; the workman told her that he presumed that it should be, however, he was not in possession of it. Mrs. Warren then inquired of the workman where he would put the concrete. The man told her that he would not be pouring any concrete and that it was not written on his work order.

Repeatedly, Mrs. Warren asked to see the building permit but did not receive it until she made the final payment to Southard Corporation, which was in August. The addition, a twenty-foot wall and a twelve-foot wall with a sliding glass door, two windows and standard door took from February, 2000, until August, 2000, to be completed.

In the fall of 2005, Mrs. Warren said she walked outside on the deck and noticed a hole in the exterior wall. Instead of metal material as she understood the siding would be, she discovered that it was a masonite or fiber that had been painted. She said that contacted Southard Corporation and a representative was sent to investigate the problem. The representative told her that the hole in the panel was due to a factory defect and should not have been used in the construction of the addition. He also noted that the house was settling and advised the Warrens that they should have some type of reinforcement installed under it and have the structure leveled. Mrs. Warren said that by that time, neither the sliding glass door nor the standard door could be used because of gaps at the top of each door caused by the settling of the house.

Ultimately, Mr. and Mrs. Warren's son contacted Central Inspection to inquire whether the office could intervene on behalf of his parents. Upon talking to Darlene Hultman, Interim Construction Inspector Supervisor for the Building Section, Mrs. Warren said that her son was informed that there had been no inspections requested or performed on the project.

Mrs. Warren said that she received a letter from the attorney for Southard Corporation, offering her \$2,000 toward payment for having the reinforcing added to the sunroom addition.

Board Member Hartwell asked Mrs. Warren if he understood correctly that there were two problems with the addition: 1) the type of material used for the panels in the addition; 2) the lack of a proper foundation had allowed settling of the structure. Mrs. Warren confirmed that Board Member Hartwell's understanding was correct.

Chairman Murabito asked if the settling was of the entire structure or if the problem was only on the addition. Mrs. Warren explained that the settling had occurred on the deck (16 X 24) where the sunroom addition (12 X 20) was erected. She provided photographs of the work and the foundation of the deck.

Board Member Hartwell asked if there was any kind of bearing beams or reinforcing beneath the deck where the walls of the addition had been constructed. Mrs. Warren said that the only foundation for the deck was the 4 x 4 posts that were supporting it originally. Ms. Hultman also added that the electrical installation specified in the permit had not been done.

Mr. Schroeder pointed out that a permit was obtained on the project (a copy was included in each Board Member's packet) in March of 2000, after the work had already commenced. The permit writer had noted at the time of the permit issuance that the foundation was a concern and that the permit holder would be required to verify to the inspection staff that it would be an appropriate foundation for the addition prior to construction. The contractor completed the work without adhering to those conditions; there were no inspections requested and the permit expired. In December of 2005, Schoenwald Structural Engineering, Inc., was contacted by Southard Corporation to determine how the problem with the foundation could be corrected.

Mrs. Warren interjected that in the corner of the wall where the sliding glass door is located, the settling has caused the wall to pull away from the roof. Board Member Hartwell expressed the opinion that since a foundation could be vulnerable to extremely dry or extremely wet soil; those conditions could have possibly contributed to the problem. Mr. Schroeder explained that it was the contention of Central Inspection, based on the permit that was issued and the directions included in the permit, that it was the contractor's responsibility to ascertain whether the foundation had sufficient supports prior to constructing the roof and walls of the addition.

As a matter of clarification, Board Member Coonrod asked Mrs. Warren if there had been any discussion with the salesman about the foundation at the time the price quote for the addition was given to her. Mrs. Warren said that the salesman inquired about the foundation under the deck; she told the salesman that it was 4 X 4's. The salesman then told her that the foundation might require concrete reinforcement. She asked the salesman if the deck could be used. He looked under the deck and responded that he didn't see "much of a problem because the floor had been attached with screws so there would be no problem

in taking it up.” Mrs. Warren said that his comment did not make sense to her at the time.

Board Member Coonrod asked if there was any indication that concrete work would be done. Mrs. Warren said that the salesman told her that there would be concrete poured, but it was not written down in the contract. Board Member Coonrod asked if it was Mrs. Warren’s understanding that the concrete reinforcement was included in the price of the addition. Mrs. Warren replied that it was her understanding.

Mr. and Mrs. Warren’s son also stated that he had been at his parents’ home during one of the visits from a Southard Corporation representative. After looking over the building permit, Mr. Warren (son) asked the representative why there had been no concrete poured as instructed on the permit. Mr. Warren (son) was told by the representative that concrete should have been poured to prevent the sagging of the addition walls.

With no further questions from the Board for Mr. and Mrs. Warren, Chairman Murabito asked Mr. Steve Henry and Mr. Mike Southard to state their side of the conflict.

Mr. Henry told the Board that he first became involved in the issue regarding the Warrens’ sunroom addition when Kelly Irvin, a workman who does technical measurements for Southard Corporation, notified him that there was a problem with some settling on the deck. At that time, Mr. Henry contacted Central Inspection, speaking to Darlene Hultman. Ms. Hultman explained the problem to Mr. Henry and he told Ms. Hultman that he would go to the Warrens’ home and inspect the addition.

Mr. Henry said that he did go to the site and checked beneath the deck and verified that there were 4 X 4 posts that had been set in concrete. He speculated that because the deck was relatively new when the Southard Corporation began their project, it was presumed to be adequate for the addition. The weight on the enclosure wall is only 1-1/2 pounds per square foot; the ceiling is aluminum on top and bottom with a three-inch foam in-between. The sidewalls are two-inch tempered masonite with aluminum verticals and aluminum horizontals. Mr. Henry said that he was not trying to make excuses, but merely trying to give an explanation for the situation.

There were several addendums for changes. One of the changes on which there was a delay was a vinyl sliding patio door. Originally, the door was to have been a five-foot sliding door; because the opening on a five-foot sliding door is not very wide, it was determined by the Warrens that a six-foot sliding door would better suit their needs. The change in doors caused some delay while waiting for it to arrive. Mr. Henry also noted that he had copies of the addendum pertaining to the storm door that Mrs. Warren mentioned when talking to the Board.

Upon seeing the problem with the foundation, Mr. Henry said he contacted Joe Southard and Leroy Donovan, owners of the Southard Corporation. He told the

owners that there had not been a pre-inspection of the deck. Mr. Donovan then told Mr. Henry that the company needed to take care of the problem on the site. Mr. Henry said that he then contacted Ms. Hultman and asked what procedure he should follow in taking steps to correct the situation. Ms. Hultman advised him to have a structural engineer assess the foundation and determine what would be necessary to provide adequate reinforcement for the foundation. Schoenwald Engineering, Inc., was hired by Southard Corporation to make the determination.

Mr. Henry said the owners of Southard Corporation were concerned by the requirement for an electrical installation. The sunroom is not actually a living space, and therefore, Mr. Southard felt that compliance for the required electrical work should be the responsibility of the homeowner. There had been nothing discussed between the salesman and the Warrens regarding electrical work, and nothing had been written into their contract. The contract was turned over to Watkins Calcara, attorney for Southard Corporation, for an opinion. A letter was sent to the Warrens, with a copy faxed to Central Inspection, stating that it was the position of the Southard Corporation, upon the advice of legal counsel, that the corporation had met their obligation in full. Mr. Henry said the intent of the company was to elicit a response from Central Inspection, directing the Southard Corporation in the next step in order to resolve the matter. He expressed surprise that the next communication that he received was a letter summoning him before the Board of Code Standards and Appeals for a possible review of the company license.

As the qualified person on the contractor's license, Mike Southard addressed the matter of the electrical requirement. According to the manufacturer, the sunroom is a Category or Class III room and the designs are stamped by ICBO (International Conference of Building Officials). The Category or Class III room is defined as a non-habitable and unconditioned room and not a room addition that is considered as part of the living space of a house. Because of the ICBO definition, the Southard Corporation saw no need to do any type of electrical installation.

Board Member Harder asked if the sunroom was considered habitable space according to the building code. Ms. Hultman read an excerpt from the 1999 National Electrical Code, Article 210.52 (the code enforced at the time of the permit issuance) that states the sunroom is defined as habitable space and requires a minimum number of receptacles. Board Member Coonrod suggested that there could be a conflict between the electrical code and the building code requirements. Mr. Schroeder conveyed that if the contractor had followed the permitting and inspection procedures in the beginning, that would have been resolved prior to the completion of the addition.

Speaking to Mr. Henry and Mr. Southard, Board Member Coonrod asked if the Southard Corporation was willing to rectify the situation. Mr. Henry affirmed his desire to resolve the conflict, wanting to maintain a positive customer rapport with the Warrens and a positive reputation with the City of Wichita. Mr. Henry agreed

that an inspection of the site by Southard Corporation, prior to the construction of the addition, would have circumvented the resulting problems.

If Mr. and Mrs. Warren agreed to accept the offer, Board Member Hartwell asked Mr. Henry what he was willing to do to satisfy the Warrens' complaint. Referring to the engineer's drawing, Mr. Henry said that he would remove the full length of the outer portion of the deck; install structural jacks; construct the pillars as proposed by the structural engineer; add a cross beam for support; and finally, reconnect the walkway area of the deck that had been removed. Mr. Henry said that he had noticed while at the site that the center 4 X 4 post on the outer deck had rotted as well; when the structural engineer had proposed the design to correct the foundation under the sunroom addition, Mr. Henry asked him to include a recommendation for repairing the post for the outer deck. Following the design of the engineer, Mr. Henry said he was willing to repair the foundation under the addition and the post supporting the outer deck also. Board Member Hartwell suggested that the drainage be diverted from under the deck to prevent erosion as well. Board Member Coonrod asked Mr. Henry if he was willing to do the work as recommended by the structural engineer that provided the designs. Mr. Henry stated that it had always been his intention to do the work.

Board Member Coonrod questioned how the issue regarding the electrical work should be handled. Mr. Schroeder said that the need for the electrical installation could be determined at a later time. Board Member Coonrod asked Mr. and Mrs. Warren if they would allow Southard Corporation to return to their property and make the required repairs. Mrs. Warren said that she was agreeable to the resolution; she felt that the letter from the attorney in behalf of Southard Corporation was merely an offer to pay \$2,000 toward having another contractor make the corrections. She did not believe that the amount was adequate to cover the costs of having the foundation repaired. Mr. Henry estimated the cost of time and materials to be approximately \$6,000; he said that he felt it was the responsibility of Southard Corporation to absorb the cost and make the repairs, including the replacement of the wall panel that was damaged.

Mr. Schroeder told the Board that although the matter was initially presented as a possible review of the license of Southard Corporation, it was apparent that the representatives of the company were making an effort to resolve the problem with the Warrens' sunroom addition. Mr. Henry added that his company would like a clarification on the classification of the sunrooms so there would be no confusion about electrical requirements in the future. Mr. Schroeder assured him that a determination would be made; he also reminded Mr. Henry that the procedures for inspections would need to be followed.

Board Member Hentzen told Mr. Henry that a new permit would have to be obtained since the original permit had expired and there was presently no permit for the job. The time frame for doing the foundation work was posed by Board Member Coonrod. Mr. Henry anticipated that it would take a week, weather permitting. Board Member Coonrod asked if the work would be completed within the next thirty days. Mr. Henry said that his company would make a point of getting it finished within thirty days.

A motion was made by Board Member Coonrod that the Southard Corporation be required to fix the foundation to the satisfaction of Central Inspection within the next thirty days, including the resolution of the electrical issue, a new permit issued or the original permit renewed, or reappear before the Board. The motion was seconded by Board Member Hartwell. The motion passed, unanimously.

6. Review of the 2003 International Existing Building Code ordinance amendment package.

Mr. Paul Hays, Senior Plans Examiner, Central Inspection, provided an update on the IEBC ordinance amendment package. Mr. Hays told the Board that he had presented the package to the Commercial Code Council and the Residential Code Council. There were no objections from either group. Board Member Hentzen was in attendance when Mr. Hays appeared before the Commercial Code Council and said that he was of the opinion that both groups were supportive of the proposed amendments. Mr. Hays also talked to Larry Webber with BOMA (Building Owners & Managers Association) and had given Mr. Webber a copy of the package. Mr. Webber voiced no objections to the changes as proposed.

Board Member Coonrod made a motion that the Board approve the 2003 International Existing Building Code amendment package for submittal to the City Council for adoption. The motion was seconded by Board Member Hentzen. The motion carried, unopposed.

With no other business to conduct, Board Member Hartwell made a motion to adjourn. The motion was seconded by Board Member Hentzen. The motion passed, unopposed.

The meeting was adjourned at 2:39 p.m.